

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GEORGE POOLE,)
)
 Plaintiff,)
)
 v.) No. 4:07CV1230(CDP)
)
 MISSOURI STATE PUBLIC DEFENDER)
 SYSTEM,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon the application of George Poole for leave to commence this action without payment of the required filing fee [Doc. #2]. See 28 U.S.C. § 1915(a). Having previously determined that Mr. Poole had abused the judicial process and his right to file actions in this Court, Mr. Poole is precluded from filing any new action or proceeding with this Court unless he first obtains leave of Court after complying with certain requirements. See In re George Poole, No. 4:06MC595(CEJ)(E.D. Mo.). Mr. Poole has not received such leave and his instant action fails to comply with the requirements specified in this Court's *en banc* order. Therefore, the instant action should be dismissed for failing to comply with the Court's prior order.

Additionally, the Court notes that it is constitutionally permissible for the State of Missouri to require Mr. Poole to repay the expenses the state incurred in providing a lawyer to Mr. Poole

if he later becomes able to pay for the lawyer. See Hanson v. Passer, 13 F.3d 275, 279 (8th Cir. 1994). In this case, Mr. Poole became able to pay for the appointed lawyer when he became eligible for a refund of his state income taxes. No constitutional violation occurred when the state setoff the income tax refund against the expense of providing Mr. Poole with a lawyer.

In accordance with the foregoing,

IT IS HEREBY ORDERED that Mr. Poole's motion to proceed in forma pauperis [Doc. #2] is **DENIED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint.

IT IS FURTHER ORDERED that Mr. Poole's motion for appointment of counsel is **DENIED**, as moot.

An appropriate order shall accompany this order and memorandum.

Dated this 10th day of September, 2007.


UNITED STATES DISTRICT JUDGE